

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 931 OF 2008  
IN  
EXECUTION APPLICATION NO. 486 OF 2006  
WITH  
SUIT NO. 4098 OF 1990

The Board of Trustees of the  
Port of Bombay.

... Plaintiff.

V/s.

M/s. Allibhoy Mohamed & Ors.

... Defendants.

And

M.S. Merchant.

... Applicant.

Ms. Preeti Shah i/b. Motiwala & Co. for the Plaintiff.

Mr. O.A. Das for Defendant No.2.

Ms. K.P. Ravi for the Applicant.

.....

**CORAM : S.C. DHARMADHIKARI,J.**

**02ND MARCH 2009.**

**P.C. :**

. The Suit is filed by the Bombay Port Trust.

2. The learned Advocate appearing for the Plaintiff

states that the matter has been settled out of Court.

3. The Suit was decreed as against Defendant Nos. 1

and 2. That was an ex-parte decree. However, the application to set aside the decree was pending. In the meanwhile, the execution proceedings were initiated but the matter has been settled. Therefore, the Plaintiff seeks leave to withdraw the Execution Application and all proceedings in Execution against Defendant Nos. 1 and 2. In the light of that, the Notice of Motion moved by the

Second Defendant does not survive and stands disposed off accordingly. The Suit remains pending as far as Defendant No.3. However, the Plaintiff's Advocate states that she has received instructions to withdraw the Suit against Defendant No.3 also. The Suit is allowed to be withdrawn and dismissed as against Defendant No.3. Refund of Court fees as per Rules.

4. Chamber Summons No.931 of 2008 will not survive after the Execution Application itself is withdrawn. Therefore, the attachment stands raised, as prayed in that Chamber Summons.

**(S.C. DHARMADHIKARI,J.)**